

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1, 3-8, 10-13, 15-17 are rejected under 35 U.S.C. 103(a) over the U.S. patent to Hart, (U.S. 3,652,902), in view of the patent to Borisenko (RU 2,054,723).

After carefully considering the Examiner's grounds for the rejection of the claims over the art, applicants have canceled the original claims and submitted a new set of claims including claims 18-27 which define a device in accordance with the present invention and claims 28-32 which define a capacitive cell in accordance with the present invention.

It is respectfully submitted that claims 18 and 28 clearly and patentably distinguish from the prior art applied by the Examiner against the original claims.

Before the analysis of the prior art it is believed to be advisable to explain the subject matter of the present invention. The present invention deals with a high capacitive energy storage device with a housing is electrically isolated from and lined with current collector's which are electrically connected

to contacts mounted on the housing, with at least one capacitance cell with a first electrode separated from a second electrode by a membrane with the electrodes formed of a regularly structured carbonized and woven fabric impregnated with an electrolyte and membrane permits free passage and molecules electrolyte thereto, with inert separators provided between the electrodes and the current collectors and chemically isolating the cell from the housing, wherein the separators are formed from a graphite-based material housing, and wherein each of the electrodes is composed of a plurality of layers of regularly structured carbonized, activated woven fabric, which are layers compressed with one another during the assembly of the device, since the device is assembled at a pressure of 2-6 kg/cm².

The present invention also deals with a capacitive cell provided for this high energy storage device and containing the above mentioned features.

Turning now to the references and particular to the patent to Hart, it can be seen that this reference discloses an electrochemical double layer capacitor which includes a housing with separators, and at least one capacitive cell. The Examiner admitted that this reference does not teach forming the electrodes of a regularly structured carbonized and activated woven fabric. The Examiner further stated Boresinko teaches a capacitor with electrodes from a regularly structured carbonized activated carbon fabric impregnated with an

electrolyte. The Examiner indicated that it would be obvious to combine the references and to arrive at the applicant's invention from such a combination.

Applicants have to respectfully disagree with this position since the references do not provide any hint or suggestion for supporting such a combination.

In connection with this it is believed to be advisable to cite the decision in ACS Hosp. Sys, Inc. V. Monteforie Hosp., 221 USPQ 929, 932, 933 (Fed. Cir. 1984) in which it was stated:

“Obviousness can not be established by combining the teaching of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. Under Section 103, teaches of references can be combined only if there is some suggestion or incentive to do so.”

It is believed to be clear that the patent to Hart and the patent to Borisenko did not provide any suggestion or incentive for their combination with one another.

Also, in the decision ATD Corp. v. Lydall, Inc. 48 USPQ 2d, 1321, 1329 (Fed. Cir. 199) it was stated:

“Determination of obviousness can not be based on the hindsight combination selectively cooled from the prior art to fit the parameters of

the patented invention. There must be a teaching or suggestion within the prior art or within the general knowledge of ordinary skill of the invention, to look to particular sources of information, to select particular elements, or to combine them in the way that they were combined by the inventor".

It is therefore believed that the combination of the references proposed by the Examiner can not be considered as obvious, and the present invention as defined in claims 18 and 29 should be considered as patentably distinguishing over the art even for these reasons.

Claims 18 and 29 specifically define that each of the electrodes formed of regularly structured carbonized and activated woven fabric impregnated with an electrolyte are composed of a plurality of layers formed of the regularly structured carbonized and activated woven fabric impregnated with an electrolyte, which layers are compressed with one another. When the high capacitance energy storage device and a capacitive cell for it are formed in accordance with these features of the present invention, it provides for the highly advantageous results in obtaining a compact, exceptionally efficient structure for storing energy. These features are not disclosed either in the patent to Hart or in the patent to Borisenko. Any combination of these two references would lead only to such a high capacitance energy storage device and to such a capacitive cell for it which would not include these new features of the present invention.

In order to arrive at the applicant's invention from the combination of the references, the references have to be fundamentally modified, in particular by including into them these features of the present invention which are of significant importance. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Definitely, the references do not provide any hint or suggestion for the modifications by including into them these features which were first proposed by the applicants.

As explained herein above, the present invention provides for highly advantageous results which can not be accomplished by the constructions disclosed in the references. It is well known that in order to support a valid rejection the art must also suggest that it would accomplish applicant's results. This was stated by the Patent Office Board of Appeals, in

the case Ex parte Tanaka, Marushima and Takahashi (174 USPQ 38), as follows:

Claims are not rejected on the ground that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicants' result, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices.

In view of the above presented remarks and amendments it is believed that claims 18 and 29 should be considered as patentably distinguishing over the art and should be allowed.

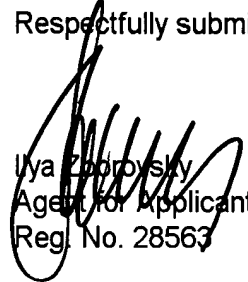
As for the dependent claims, these claims depend on the corresponding independent claims, they share their presumably allowable features, and therefore it is respectfully submitted that they should be allowed as well.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by

Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,



Ilya Zaporosky
Agent for Applicant
Reg. No. 28563